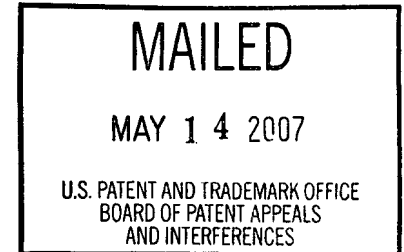


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS J. HORMANN and
HERBERT BRINKMANN

Application No. 10/509,006



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on January 10, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

A review of the file indicates that an Examiner's Answer was mailed on June 26, 2006. The "Evidence Relied Upon" section states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal." However, the Examiner's Answer relies on a reference, *Mondragon et al.* As stated in the Manual of Patent Examining

Procedure § 1207.02 Rev. 3 (August, 2005) "Contents of Examiner's Answer:"

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Before further review, the examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the Grounds

Application No. 10/509,006

of Rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02.

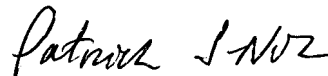
Appropriate correction is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner to:

1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



Patrick J. Nolan
Deputy Chief Appeals Administrator
(571) 272-9797

Frederich Knieffner
Suite 910
317 Madison Avenue
New York, NY 10017

ewh